The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte JAMES MCKEETH

Appeal No. 2004-0840
Application No. 09/449,782

ON BRIEF

Before THOMAS, DIXON, and BLANKENSHIP, Administrative Patent Judges.

BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-22, which are all the claims in the application.

We reverse.

BACKGROUND

The invention is directed to a method and apparatus for redirecting command line utility output to a non-application maintained storage location (i.e., a system storage location), obviating the need to create a temporary file. Representative claim 1 is reproduced below.

1. A method to provide process command line utility output, comprising:

receiving an identifier;

receiving output from a command line utility; and

storing the command line utility output in a system storage at a location identified by the identifier.

The examiner relies on the following reference:

Buxton	6,182,279 B1	Jan. 30, 2001 (filed Aug. 12, 1997)

Claims 1-22 stand rejected under 35 U.S.C. § 102 as being anticipated by Buxton.[1]

We refer to the Final Rejection (Paper No. 5) and the Examiner's Answer (Paper No. 11) for a statement of the examiner's position and to the Brief (Paper No. 10) and the Reply Brief (Paper No. 12) for appellant's position with respect to the claims which stand rejected.

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[1] The rejection errs in the contention that Buxton is a reference under 35 U.S.C. § 102(b). Buxton is, however, a reference under § 102(e)(2).

OPINION

Appellant argues in the Brief that Buxton does not disclose receiving output from a command line utility and storing the command line utility output in a system storage. According to appellant, the template builder disclosed by Buxton uses a graphical user interface (GUI) to select a base component, customize the component, and store the customization as a template. In the examiner's view (Answer at 4), Buxton provides command line processes as an alternative to a user interface, pointing to column 8, lines 51 through 53 of the reference. The user enters a descriptive name for the template, and the name is deemed to correspond to the "identifier" as recited in instant claim 1. Further, the examiner makes clear that storing the modified component (i.e., the template) in Buxton is deemed to correspond to storing the command line utility output as claimed.

Appellant responds in turn, in the Reply Brief, that equating the template builder of Buxton with the "command line utility" is not a reasonable construction. Appellant argues, further, that a user-specified name for a template does not identify a location for storing the template, and thus cannot meet the claim requirements.

We are in substantial agreement with appellant's position advanced in the briefs. Buxton discloses a template builder 204 (Fig. 2) that includes a graphic user interface 402 (Fig. 4A), which generates a dialog box in which the user may enter a descriptive name of the template. Col. 12, ll. 1-4. A user interface that enables a user to interact with component system 200 (Fig. 2) may be implemented with a simple command line

interpreter or may have a graphic user interface with pull down menus to select specific components, such as template builder 204. Col. 8, ll. 45-52. Template builder 204 (or 400) may also be launched on a standalone basis or from a menu contained in a user interface of component system 200. Col. 11, ll. 28-30. Appellant's specification (at 1) indicates that command line utilities are accessible only through a command line interface (e.g., to access system information), and provides examples of command line utilities in different operating systems.

Appellant thus provides the only evidence in this record tending to show the meaning of the term as known in the art. Buxton refers to a "template builder utility" (e.g., Abstract), but does not refer to template builder 204 as a "command line utility." The examiner has provided no evidence in support of the implicit finding that the artisan would have regarded Buxton's disclosure to fall within the meaning of the claims (e.g., that the artisan would have considered an application or utility contained within a component system, the system being accessible via a command line interpreter interface, to be a "command line utility").

Further, if the rejection asserts that some portion of the claimed subject matter was within the skill of those reasonably skilled in the art, although not identically disclosed by Buxton -- the examiner cites column 8, lines 51 through 52 of the reference -- that assertion is a matter for an inquiry into obviousness under 35 U.S.C. § 103, rather than a finding of anticipation under § 102.

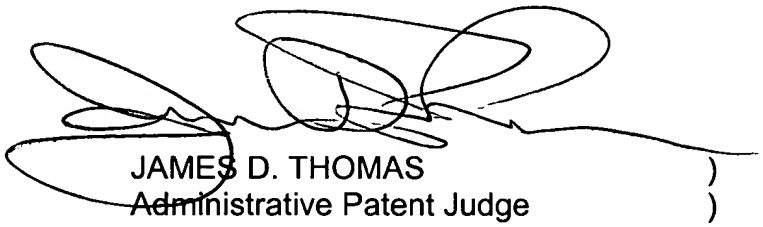
In addition, while a template name may identify the template, the examiner has not shown, nor do we find, where Buxton may disclose that the template is in a system storage "at a location identified by the identifier," as required by representative claim 1.

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984). Since the rejection fails to show disclosure in the reference of each and every element of the invention of independent claim 1, 15, or 21, we cannot sustain the rejection of any of the claims.

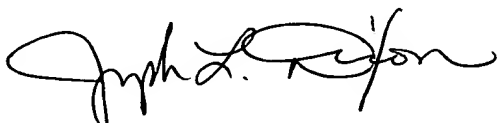
CONCLUSION

The rejection of claims 1-22 under 35 U.S.C. § 102 as being anticipated by Buxton is reversed.

REVERSED



JAMES D. THOMAS
Administrative Patent Judge



JOSEPH L. DIXON
Administrative Patent Judge

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HOWARD B. BLANKENSHIP
Administrative Patent Judge

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COE F MILES
TROP PRUNER HU & MILES P C
8554 KATY FREEWAY
SUITE 100
HOUSTON , TX 77024